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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,216	10/27/2000	Patrick Potega		8292

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EXAMINER
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VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 01/24/2002

#3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/699,216

Applicant(s)  
Potega, Patrick

Examiner  
Gail Verbitsky

Art Unit  
2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the A) "host device", as stated in claim 14 and B) "Y-connector" as stated in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case, the claim language is confusing because it is not

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clear what power source applicant means: external or the power source (battery) whose functions are to be monitored? Perhaps, applicant should replace "power source" with --battery-- through all claims and the specification except when an external power source is meant.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 4, 5, 7-9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cataldi et al. [hereinafter Cataldi].

Cataldi discloses in Figs. 1, 4 and 5 a battery voltmeter comprising a dielectric layer 13 (non-conductive medium or stratum) bonded to a resistive element (a conductive ink, col. 3, line 11) and to terminal ends 15-16 made of the conductive ink (electrodes) which are in contact with the resistive element and connected to a positive and negative terminals of a battery to cause current to pass through the resistive element (col. 4, lines 18-19), and thus, constituting an interface with the battery, a label layer 17, a color indicator layer 19 with a graphic scale 18. Cataldi discloses the device in a form of a label (col. 6, line 66), wherein, the dielectric layer is attached to the battery housing (exterior) by means of an adhesive layer 21.

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7. Claims 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Friel.

Friel discloses in Fig. 1 a device comprising insulation layers (col. 3, lines 55-56) (non-conductive strata) sandwiching two resistive elements 3 and 4 (thermistors) having conductive electrodes 5 and 6 positioned upon a resistive element 2 (conductive ink) and constituting two segments on top of the element 2 wherein, the conductive electrodes (connectors) sharing an adjacent (a common) segment of the element 2 and the thermistors are accessible through these conductive electrodes (elements).

With respect to "whereby": it has been held that the "functional "whereby" statement does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957). Therefore, the claim limitations following "whereby" are not given any patentable weight.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cataldi as applied to claims 1, 3, 4, 5, 8- 9 and 12-13 above, and further in view of SU 0593085 [hereinafter SU].

Cataldi discloses a device as stated above in paragraph 6.

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They do not disclose the limitation of claim 2.

SU discloses in Fig. 1 a device for contact temperature measurement comprising a dielectric layer 3 ( a first non-conductive medium), a number of dielectric layers 7 ( a second and third non-conductive media) forming a multi-layered construct. SU states that such a device demonstrates an improved accuracy due to a better isolation of a thermosensitive resistive element 5.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a second and third non-conductive layers, as taught by SU, to the device disclosed by Cataldi, in order to improve the accuracy of the device due to providing a better isolation of the thermosensitive resistive element, as already suggested by SU.

10. Claims 6, 10-11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cataldi as applied to claims 1, 3, 4, 5, 8-9 and 12-13 above, and further in view of Burns et al. [hereinafter Burns].

Cataldi discloses a device as stated above in paragraph 6.

Cataldi does not disclose the limitations of claims 6, 10-11, 14-16.

Burns discloses a conformable temperature sensing surface ( circuit board) comprising two thin flexible outmost layers sandwiching a temperature sensing element (col. 3, lines 44-49 and col. 4, line 13). This structure can be applied to or wrapped around a cell of a battery to provide a good contact for temperature sensing.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the outer layers in the device disclosed by Cataldi with layers made of thin and flexible material, as taught by Burns, in order to be able to easily attach the device to any surface and keep it in a good contact with the surface of any shape, as already suggested by Burns.

Official Notice is taken with respect to claims 14-16 since it is very well known in the art to use a jumper connector or a Y-connector to connect one structure to a plurality other structures. Thus, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a jumper connector or a Y-connector to connect the device disclosed by Cataldi to different data lines and power sources, as it is very well known in the art.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices.

12. Any inquiry concerning this communication should be directed to Examiner Verbitsky who can be reached at (703) 306-5473 Monday through Friday, 7:30 to 4:00 ET.

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Any inquiry of general nature of the status of this application should be directed to the  
Group Receptionist whose telephone number is (703) 308-0956.

GKV

January 07, 2002



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800